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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,678	12/17/2001	Yozo Morita	D-1220	5092
7590	01/08/2004			
KANESAKA AND TAKEUCHI 1423 Powhatan Street Alexandria, VA 22314				EXAMINER SINES, BRIAN J
				ART UNIT 1743 PAPER NUMBER

DATE MAILED: 01/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/015,678	MORITA ET AL.
	Examiner	Art Unit
	Brian J. Sines	1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 11/10/2003.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-7 is/are pending in the application.

4a) Of the above claim(s) 5-7 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-4 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

    1. Certified copies of the priority documents have been received.

    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

    a)  The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election of invention I in the response filed 11/10/2003 is acknowledged.

Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Claims 5 – 7 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Godec *et al.* (U.S. Pat. No. 5,132,094 A). Godec *et al.* teach an apparatus comprising: a sample supply portion (10); a

reagent supply portion (18 & 36); an oxidation reaction portion (46) connected to the sample supply portion and the reagent supply portion; an analyzing portion (56); and a controlling portion (106) (see figure 1).

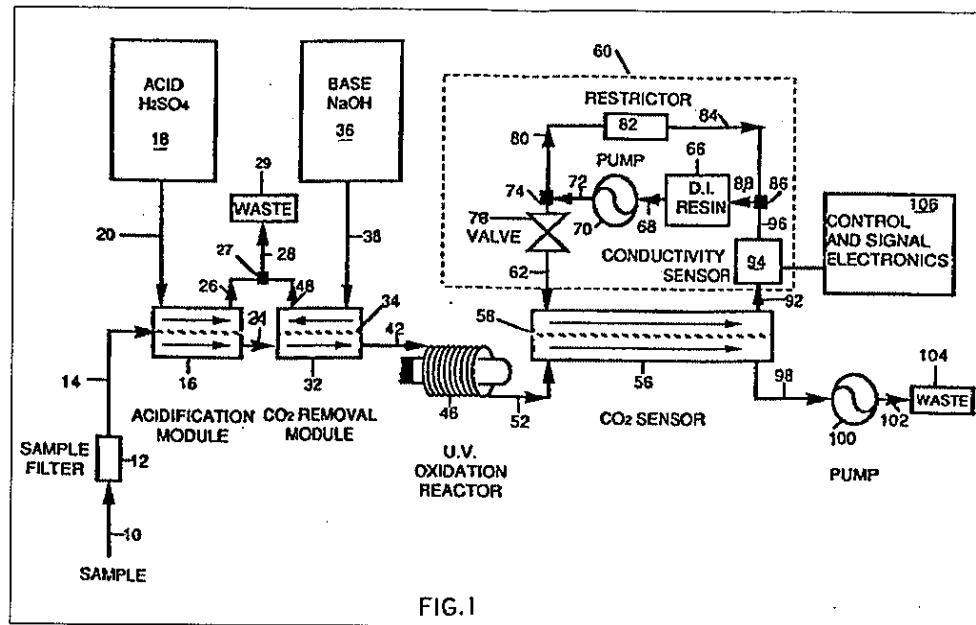
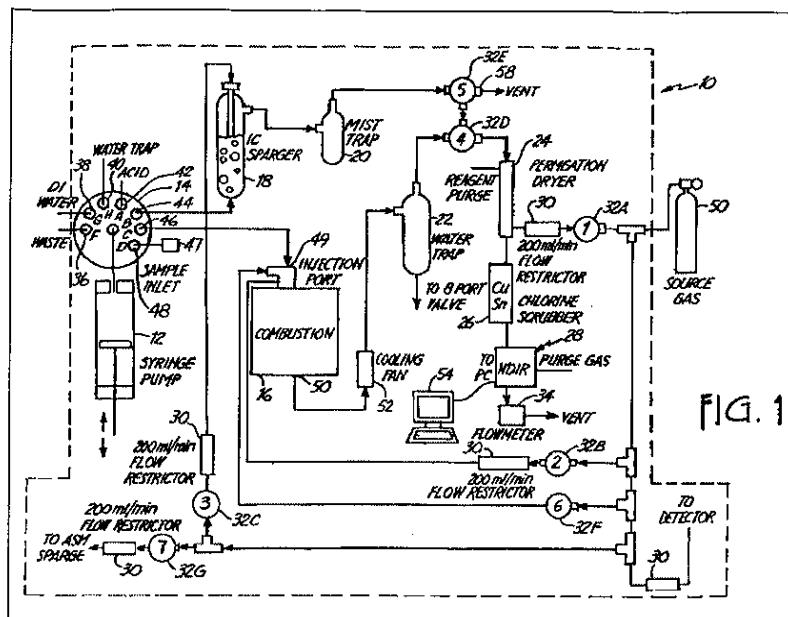
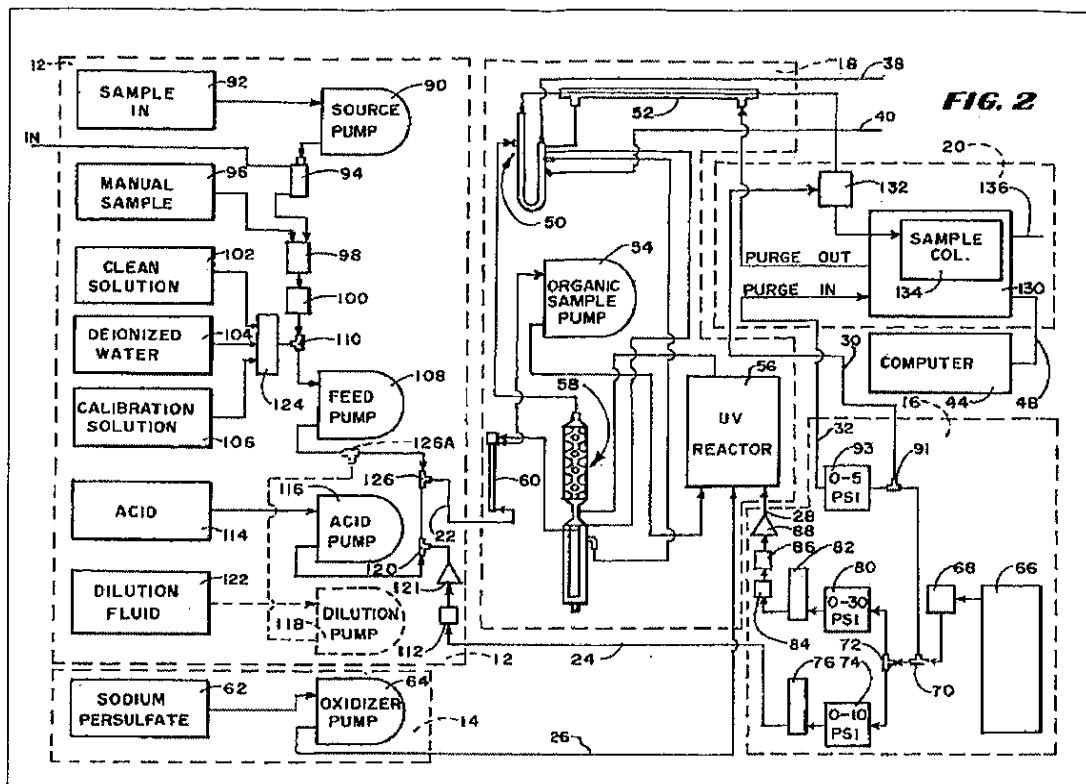


FIG.1

2. Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Lee-Alvarez *et al.* (U.S. Pat. No. 6,375,900 B1). Regarding claim 1, Lee-Alvarez *et al.* teach an apparatus comprising: a sample supply portion (48); a reagent supply portion (66); an oxidation reaction portion (16) connected to the sample supply portion and the reagent supply portion; an analyzing portion (28); and a controlling portion (54) (see figures 1 – 4). Regarding claim 2, Lee-Alvarez *et al.* teach the further incorporation of a carrier gas supply portion (source gas 50) and an inorganic carbon sparger (e.g., a sparger contained within inorganic module 18) (see col. 2, lines 44 – 65).



3. Claims 1 – 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Wright *et al.* (U.S. Pat. No. 5,531,961 A). Regarding claim 1, Wright *et al.* teach an apparatus comprising: a sample supply portion (92 & 96); a reagent supply portion (62); an oxidation reaction portion (56) connected to the sample supply portion and the reagent supply portion; an analyzing portion (130); and a controlling portion (44) (see figure 2). Regarding claim 2, Wright *et al.* teach the further incorporation of a carrier gas supply portion (16) and an inorganic carbon sparger (60) (see col. 4, lines 4 – 67). Regarding claim 3, Wright *et al.* teach that the apparatus further includes an elongated ultraviolet lamp, which fits through the center of an elongated reactor chamber and facilitates the catalytic oxidation of organic carbon (see col. 2, lines 8 – 27 & col. 4, lines 52 – 67). Regarding claim 4, Wright *et al.* teach the incorporation of an infrared detector (130) to detect carbon dioxide (see col. 6, lines 34 – 39).



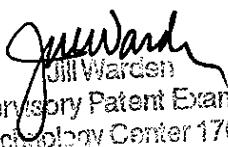
### Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ejzak teaches a method and apparatus for measuring the amount of carbon dioxide via the use of ultraviolet irradiation.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Sines, Ph.D. whose telephone number is (571) 272-1263. The examiner can normally be reached on Monday - Friday (11:30 AM - 8 PM EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on (571) 272-1267. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

  
Jill Warden  
Supervisory Patent Examiner  
Technology Center 1700